



UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARK  
Washington, D.C. 20231

APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO
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EXAMINER

ART UNIT	PAPER NUMBER
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14

DATE MAILED:  
**INTERVIEW SUMMARY**

All participants (applicant, applicant's representative, PTO personnel):

- (1) Mr. Barrett (3) \_\_\_\_\_  
(2) Exr Bueker (4) \_\_\_\_\_

Date of Interview 6-1-01

Type:  Telephonic  Televideo Conference  Personal (copy is given to  applicant  applicant's representative).

Exhibit shown or demonstration conducted:  Yes  No If yes, brief description: \_\_\_\_\_

Agreement  was reached.  was not reached.

Claim(s) discussed: 1-31 + 46

Identification of prior art discussed: art of record

Description of the general nature of what was agreed to if an agreement was reached, or any other comments: The examiner indicated that the claims must positively recite the phosphorous containing compound that the showing of unexpected results is based on. Also, the percent of nickel content in the claims must be based on a showing of unexpected results.

(A fuller description, if necessary, and a copy of the amendments, if available, which the examiner agreed would render the claims allowable must be attached. Also, where no copy of the amendments which would render the claims allowable is available, a summary thereof must be attached.)

It is not necessary for applicant to provide a separate record of the substance of the interview.

Unless the paragraph above has been checked to indicate to the contrary, A FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION IS NOT WAIVED AND MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW.

Examiner Note: You must sign this form unless it is an attachment to another form

*Richard Bueker*

RICHARD BUEKER  
PRIMARY EXAMINER  
ART UNIT/763

## **Manual of Patent Examining Procedure, Section 713.04 Substance of Interview must Be Made of Record**

Except as otherwise provided, a complete written statement as to the substance of any face-to-face or telephone interview with regard to an application must be made of record in the application, whether or not an agreement with the examiner was reached at the interview.

### **§1.133 Interviews**

(b) In every instance where re-consideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §1.111 and 1.135 (35 U.S.C. 142).

**§ 1.2. Business to be transacted in writing.** All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete a two-sheet, carbon interleaf Interview Summary Form for each interview held after January 1, 1978 where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks in neat handwritten form using a ball point pen. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, pointing out typographical errors or inadvertent slips in Office actions or the like, or resulting in an examiner's amendment that fully sets forth the agreement, are excluded from the interview recordation procedure below.

The Interview Summary Form shall be given an appropriate number, placed in the right hand portion of the file, and listed on the "Contents" list of the file wrapper. In a personal interview, the duplicate copy of the Form is retained and given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication.

The Form provides for recordation of the following information:

- Application Number of the application
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (personal or telephone)
- Name of participant(s) (applicant, attorney, or agent, etc.)
- An indication whether or not a telephone conference was conducted
- An identification of the claims discussed
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and a statement of the general nature of the agreement (it may be by attachment of a copy of a memorandum of claims agreement being exchanged). (Agreements relative to allowability are tentative and do not restrict further action by the examiner to the contrary.)
- The signature of the examiner who conducted the interview
- Names of other Patent and Trademark Office personnel present

The Form also contains a statement reminding the applicant of his responsibility to record the substance of the interview.

It is desired that the examiner orally remind the applicant of his obligation to record the substance of the interview in each case unless both applicant and examiner agree that the examiner will report same. Where the examiner agrees to record the substance of the interview, or where it is adequately recorded on the Form or in an attachment to the Form, the examiner should check the box in the bottom of the Form informing the applicant that he need not supplement the Form by submitting a separate record of the substance of the interview.

It should be noted, however, that the Interview Summary Form will normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by, the application or the examiner's record of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of an interview should include at least the following applicable items:

1. A brief description of the nature of any exhibit, claim or any demonstration conducted
2. An identification of the claims discussed
3. An identification of specific prior art discussed
4. An identification of the principal proposed amendment of a patentable nature discussed, or less these are already described on the Interview Summary Form completed by the examiner
5. A brief description of the general thought of the principal argument presented to the examiner. The identification of arguments need not be lengthy or elaborate. A very short, detailed identification of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made by the examiner can be understood in the context of the application (e.g., Of course, the applicant may desire to examine and fully describe these arguments when he or she or might be permitted to do so).
6. A generalization of any other pertinent matters discussed, if any
7. If appropriate, the general results of all one of the interview which is already described in the Interview Summary Form completed by the examiner

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete or accurate, the examiner will give the applicant one month from the date of the notify letter to complete the reply and thereby avoid abandonment of the application (37 CFR 1.135(c)).

### **Examiner to Check for Accuracy**

Applicant's summary of what took place at the interview should be carefully checked to determine the accuracy of any argument or statement attributed to the examiner during the interview. If there is an inaccuracy and it bears directly on the question of patentability, it should be pointed out in the next Office letter. If the claims are allowable for other reasons of record, the examiner should add a letter setting forth his or her version of the statement attributed to him. If the record is complete and accurate, the examiner should place the indication "Interview record OK" in the paper recording the substance of the interview along with the date and the examiner's initials.